

D/Pers  
82-658

14 MAY 1982

Executive Registry  
82-3119

MEMORANDUM FOR: Executive Director

FROM: James N. Glerum  
Director of Personnel

SUBJECT: Spouse Leave Without Pay Program

1. Action Requested

It is requested that you approve the recommendation contained in paragraph 3.

2. Background

a. Since 1972, the Agency has had a formal program that has tried to accommodate the employment needs and desires of the Agency-employed spouses of Agency employees during assignments to U.S. and foreign field locations. In the eyes of many of the employees who accompanied their spouses, the program has been less than satisfactory, despite our good faith intentions and efforts to try to balance their needs with the Agency's.

b. The program has evolved from the original provision for three years' Leave Without Pay (LWOP) with no guarantee of a position upon return to Headquarters, through several minor modifications, to the current provision for 90 days' LWOP, conversion to Contract When Actually Employed (WAE) status if no position is identified, and with a guarantee of restoration to a like position and the grade held at departure.

c. My staff recently completed a study of the program following a year of operation of the current provisions. A report on that study is contained in Attachment B which also includes recommended modifications which were developed as a result of the study and further refined by the Personnel Management Advisory Board in April 1982. We believe that the proposed modifications bring this program up to date with the current state of societal changes and give due consideration to the need to balance Agency responsibilities and needs with employees' responsibilities and needs. Attachment A provides a summary of the program with the recommended modifications.

3. Recommendation

It is recommended that you approve the following provisions of the Agency's program for the spouses of Agency employed couples being assigned to U.S. and foreign field posts:

a. Retain the current provision for completion of the trial period with Director of Personnel approval of waivers requested and justified by the Career Service.

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b. Modify the use of LWOP to provide 90 days for those trial-period employees whose Career Service does not request and justify a waiver. Should a field assignment not become available within the 90 days the trial-period employee will be required to resign.

c. Eliminate the requirement to convert to contract When Actually Employed (WAE) status following 90 days' LWOP for any employee (including the trial period employee for whom a waiver has been approved) and substitute a provision to retain staff status and convert to a time-limited Reserve staff appointment in WAE status.

d. Modify the current maximum 52 months' absence to provide for a 52-month "basic" cumulative total period of absence which may be extended at any future time by the responsible Career Service.

e. Add a statement that Career Services may disapprove requests for extensions of the basic period provided they have given thorough consideration to all aspects of the employee's service and the Career Service needs.

f. Add options for employees whose Career Service does not approve an extension of the basic period or, on the rare occasion of a disapproval of an initial request within the 52-month period, to either remain in place, resign to accompany the primary employee, or convert to Reserve WAE Staff Status with no Career Service obligation to restore the employee to active employment or the previously held grade.

g. Retain the current Career Service obligation to restore the employee to active employment at the grade held upon departure for the 52-month basic period and extend this obligation to any future extensions approved by the Career Service.

h. Retain the other current provisions of the program as follows:

- (1) Employee signature on a memorandum of understanding (different ones for approved and non-approved situations);
- (2) Headquarters approval of the proposed rate of pay when the WAE employee is employed;
- (3) Requirement for the employee to return to active employment status within 60 days of return to Headquarters;
- (4) Career Service jurisdiction of the employee during all approved absences;
- (5) Suspension of comparative evaluation at the point where no performance appraisal is available in the employee's regular occupational specialty;

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- (6) Career Service cognizance may change with agreement of all three parties.

/s/ James N. Glerum  
James N. Glerum

The recommendations contained in paragraph 3 are:

APPROVED (X)

DISAPPROVED ( )

/s/ John E. McMahon

14 MAY 1982

Executive Director

Date

Attachments  
As Stated

Distribution:

Orig - Return to D/OP

1 - DCI

1 - DDCI

1 - ExDir

1 - ER

✓ 2 - D/OP

1 - Subject (Spouse LWOP)

1 - Chrono

OP/P&PS

(5/10/82)

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ATTACHMENT A

SUMMARY OF PROPOSED REVISED SPOUSE EMPLOYMENT PROGRAM  
FOR SPOUSES OF AGENCY EMPLOYEES ASSIGNED TO  
OTHER GEOGRAPHIC LOCATIONS

1. Completion of trial period, or D/OP approval of a waiver justified and requested by the Career Service (not the employee). No Career Service obligation to request waivers.
2. If trial period not completed and waiver not requested, employee will be authorized 90 days' LWOP following expiration of annual leave to allow for location of a position at the new location.
  - a. Should an assignment develop, employee may be "picked up" by the Station.
  - b. Should an assignment not develop, the employee will resign upon completion of 90 days' LWOP.
  - c. An acknowledgement of this provision will be required through employee signature on memorandum of understanding.
3. Employees may be absent for a cumulative "basic" period of 52 months with no time limitation on the accumulation.

There will be no requirement for Headquarters service between tours within the 52-month period.
4. Employees will convert directly from full-time career staff status to When Actually Employed (WAE) reserve staff status before departure for the field.
5. Career Services may grant extensions of the "basic" period.

There will be no requirement for Headquarters service between completion of the basic period and extension or between extensions.
6. Career Services may disapprove requests for extensions.
7. If an extension is not approved, the employee may opt to:
  - a. Remain in place,
  - b. Resign,
  - c. Convert to Reserve WAE Staff Status with no Career Service obligation to restore to active employment or at the grade held at the time of departure.

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8. Career Services are obligated to restore to active employment at the grade held prior to departure any employee whose absence has been approved by that Career Service for the basic 52-month period and any extensions of that period.
9. Career Services are not obligated to restore to active employment, or at the grade held prior to departure, any employee whose request for extension of the basic 52-month period is not approved.
10. In the event a Career Service is unable to approve a request for absence within and up to the 52-month basic period, the career (as opposed to trial-period) employees will have the options to remain in place, resign, or convert to WAE Reserve Staff Status with no Career Service obligation to restore to active employment or at the grade previously held.

REPORT AND RECOMMENDATIONS CONCERNING THE SPOUSE LWOP PROGRAMA. Background

1. This report has been prepared in accordance with a DDCI-approved recommendation of the Task Force on Married Couples that the Office of Personnel report to the DDA on the status of the Spouse Leave Without Pay (LWOP) Program one year after its inception.

2. Current Agency policy regarding staff employees accompanying spouses to other geographic areas was approved by Mr. Carlucci on 3 April 1980 [ ]

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3. Under this Program, a staff employee accompanying an Agency spouse to a permanent change of station (PCS) outside the Headquarters area is granted 90 days' Leave Without Pay (LWOP) following the expiration of accrued annual leave. If a position, staff or contract, is not identified prior to the expiration of the 90 days' LWOP, he or she is converted to "When Actually Employed" (WAE) contract status. The field may use the contract to employ the spouse at any time, subject to Headquarters' prior approval of the proposed rate of pay and the work to be performed. Upon return PCS to the Headquarters area, and provided that no more than 52 consecutive months have elapsed, the employee is restored to staff status in the same Career Service and at the same grade level held prior to departure, although not necessarily to the same position.

4. In addition to reviewing the operation of the Program during its first year, we considered other issues that have been raised recently: (a) the requirement that the accompanying spouse successfully complete the trial period in order to be eligible for this Program and (b) the possibility of these employees retaining staff status. Flowing from (b) was (c) reconsideration of the need to continue the LWOP provision; (d) reconsideration of the 52-month limitation; and (e) review of the Career Service commitment for reinstatement.

B. Status of Program

1. During the first year of the new Program, 29 staff employees [ ] and [ ] accompanied their spouses on PCS assignments outside the Headquarters area [ ]. Of these [ ] employees, [ ] went on LWOP after the expiration of accrued annual leave, and [ ] went directly from staff status to WAE contract status.

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2. Of the [ ] who went on LWOP, [ ] were given staff jobs at their grade level before or at the expiration of the 90 days' LWOP. Four others were converted to contract status before the LWOP expired, and given jobs. Of the remainder, [ ] returned to Headquarters, [ ] is still on unexpired LWOP, and [ ] were converted to WAE contract status upon the expiration of LWOP.

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3. Of the [ ] employees on WAE contract, at least [ ] were in a pay status at one time or another.

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4. Both employees who returned to Headquarters were reinstated in staff status at their previous grade level in their original Career Service, but in jobs different from the ones occupied prior to departure.

5. From the foregoing, it appears that the Program is working as intended. The long-range effects cannot be evaluated, however, since experience in one critical aspect--the return to Headquarters--is lacking.

C. Discussion and Recommendations for Modification

1. Completion of Trial Period as an Eligibility Requirement

STAT a. The requirement that the employee requesting IDOP to accompany an Agency spouse to a [ ] PCS assignment must have completed the entire three-year trial period was approved by the Director of Personnel in December 1980. With proper justification, this requirement may be waived by the Director of Personnel.

b. Our files record neither specific discussion nor controversy about this provision. Presumably, it was believed to be a logical position, given the purpose of the trial period. Completion of the trial period, with the attendant security review, should help screen out any potential problem cases, especially since later handling of problems overseas can be difficult. Chief, Special Activities Staff, advises that "very few" employees are terminated during either the first year, or the first three years, of employment, although some problems are surfacing now via the reinvestigation program. Of those separations occurring during a trial period, more have been based on conduct than on performance.

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STAT c. From the start of FY 1981 through 31 July 1981, [ ] staff employees were assigned overseas prior to completion of their trial period [ ] with less than one year of service, and an additional [ ] with one to three years' service). Of that group, the largest number is in OC ([ ] with less than one year, and [ ] in the one-to three-year group). The next largest numbers are in the DDO, with [ ] and the DDS&T, with [ ] [ ] [ ]

d. The arguments for retaining the requirement that the trial period be completed are:

- ° Successful completion implies the absence of performance or suitability problems.
- ° The danger of suitability/performance problems later surfacing overseas is reduced.
- ° The Director of Personnel has the authority to make an exception when justified.
- ° The responsible Career Service will have some performance basis for discharging their personnel management responsibilities for the employee.

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e. The arguments against retaining the trial-period requirement are:

- It discriminates against spouses, since sponsors do not have to meet the same trial-period requirement prior to overseas assignment.
- To date, apparently no problems have surfaced with the fairly large number of those assigned overseas in 1981 who have not completed the trial period.
- Making exceptions can leave an impression of unfair application of the policy, since employees usually have no way of knowing why waivers are granted.

f. Recommendation

(1) We believe the current policy provides for a minimal performance/suitability record for most employees going overseas; and that completion of the trial-period requirement should be retained. The Director of Personnel may grant a waiver of this requirement in individual cases when requested and justified by the responsible Career Service.

(2) In instances where the accompanying spouse has not completed the trial period, and the Career Service does not request a waiver, the employee would be granted 90 days' LWOP in order to allow time to locate an assignment in the field. Should an assignment not materialize within the 90-day LWOP period, the employee then will resign from staff employment.

## 2. Use of LWOP

a. Since the inception of the Program in 1972, LWOP has been either the primary mechanism for accommodating the sponsor's Agency spouse; or, in the current version, a part of the Program. The change from the original three years of LWOP to the current 90 days with conversion to WAE contract status upon expiration of the LWOP was made partly in response to the continuing expressions of concern of a number of employees about the fairness of this Program. The LWOP provision has provided some benefits to both employees and the Agency, but more dollar costs to the Agency. The employees gained time credit towards retirement, with no contributions to the fund, for up to six months in each calendar year of LWOP. In addition, those who had individual (as opposed to family) coverage by FEGLI and/or health insurance, were covered with no premium payments for 365 calendar days in LWOP status. The Agency gained by being spared the costs of processing resignations, clearances, and (re) appointment actions; and, in addition, contributed somewhat to some improvement of the morale of employees who earlier were "forced" to resign to accompany their employee-spouse to field assignments.

b. At the same time, the employee's relationship with the Agency was maintained while in LWOP status, and time was available to locate an assignment, or for one to develop, if these did not occur prior to the employee's departure for overseas. Returning the employee to duty as a staff employee from LWOP at any time was relatively simple: it took one personnel action.

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c. Assuming approval of the recommendation proposed in paragraph 3, retaining the 90-day LWOP provision before converting to WAE status becomes a more cumbersome procedure. This is because it would then take two personnel actions to accomplish the end result rather than the one it will take to convert directly to WAE status.

## d. Recommendation

(1) We believe the need to simplify the handling of this Program and to alleviate other perceptions of unfairness that have been more obvious than the retirement credit benefit outweigh the potential negative reaction to dropping a provision that provides a small benefit to a small number of employees. Thus, we recommend that the provision for 90 days' LWOP be dropped if the recommendation for retention of staff status is approved. Returning a staff employee to regular employment status from WAE status is as simple a process as returning to duty from LWOP: one personnel action is required.

(2) As noted in the trial period paragraph, 90 days' LWOP would be available to the spouse whose Career Service does not endorse a waiver of the trial period requirement with resignation to be effective at the expiration of 90 days if an assignment does not materialize in the field.

## 3. Retention of Staff Status

a. This issue has been a sore point for many years. Our previous objection to accompanying spouses retaining staff status was based on several points: (1) the difficulty in changing a staff employee's grade, should he or she serve at a lower grade while overseas--historically, such actions are processed as "change to lower grade" which, even though not a true adverse action in these circumstances, tends to create a negative impression in the employee's file; (2) the potential for overpayment (and the resultant requirement for an employee refund) if the employee serves at a lower grade and there is a delay in processing the required paperwork, and (3) the "simplicity" of the contract system, prior to PERSIGN, that required only a contract amendment for Payroll to effect a pay change.

b. Despite the fact that "resignation" from staff status for the purpose of this Program is, in many cases, a personal trauma to those who must go through it (even though it is primarily a paper exercise), the foregoing objections to retention of staff status were believed to outweigh the negative reaction of a small number of employees to being required to "resign."

c. Our research shows, however, that there now may be no valid reasons why such employees cannot retain staff status; for instance:

- The processing of contract grade changes now requires more paperwork than does the staff system. (OF/Payroll must have both a Form 1150 and a contract amendment in order to process a pay change for a contract employee. Only a Form 1150 is needed for routine staff pay changes.)

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- ° Because of this, the potential for overpayment when Duty Status Reports (DSRs) reach Payroll before a Form 1150 does is greater for contract employees than for staff employees. (Payroll pays the last officially recorded grade and salary when a DSR is received.)
- ° The use of the terminology "pay adjustment" on the 1150 to accomplish a downward grade change during employment under this Program should alleviate the negative impression given by a "change to lower grade" action.

d. Recommendation

In view of the foregoing, it is recommended that staff employees accompanying their spouses to [redacted] assignments retain their staff status and convert directly from regular to Reserve WAE status. The conversion to Reserve WAE will be at the employee's current grade and grade changes occurring while in this status will be accomplished by a "Pay Adjustment" Personnel Action.

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4. Length of Absence from Headquarters to Accompany a Spouse

a. The current program limits the time the accompanying spouse may be absent from Headquarters to a "maximum" of 52 months. Our files do not contain specific details regarding the composition of this length of time but there is an indication that four years was "tied to the new tour lengths," that absence beyond that point raised the specter of a potential loss of skills, and that four months was added later to allow for home leave between and after two two-year tours. The possibility of subsequent absences beyond 52 months seems to be out of the question based on the use of the word "maximum." In reality, however, we can expect future requests for additional absences, especially perhaps from staff spouses of Commo employees, and thus believe the point deserves attention at this time.

b. For both the clerical and professional employee who works minimally, or not at all, or at some different occupation, for some length of time, the concern about loss of skills in the primary occupation is a legitimate one. The point at which this is a fact rather than a speculation is open for debate; however, about four years seems reasonable, although it is not empirically documented.

c. Fifty-two months accommodates nicely two back-to-back two-year tours with home leave. It also accommodates to separated two-year tours, one two-year tour, one three-year tour, two 18-month tours, or one four-year tour, all with home leave. It does not accommodate two three-year tours and probably does not accommodate some combinations of extended basic tours or lateral transfers involving differing tour lengths.

d. It is, perhaps, unrealistic for management not to expect requests for additional periods of absence, especially in the face of all the economic factors which dictate an increasing need for both marriage partners to be employed. At the same time, it is perhaps just as unrealistic for employees

to expect unlimited management accommodation and support of their personal preferences. However, it seems prudent at this time to provide a routine way to deal with the issue of requests for additional periods of absence beyond 52 months without the often agonizing and time-consuming process of justifications, reviews, exceptions, etc.

e. Recommendation

In the belief that the original reasons for limiting the length of absence are valid, it is recommended that the 52-month limitation be modified as follows:

- (a) that the 52-month period be considered a "basic" period and that it be cumulative, not necessarily consecutive;
- (b) that requests for absences beyond the "basic" period be considered as extensions which may be approved by the Head of the responsible Career Service;
- (c) that the Career Services have the authority to not approve extensions provided they have given thorough consideration of the total length of the employee's absence from his or her primary occupation and parent Career Service, the kind and quality of work performed at previous overseas posts, or potentially to be performed at the next post, and the employee's overall value to the Career Service;
- (d) that in instances where the Career Service does not approve an extension, the employee have the options to remain in place, resign, or convert to Reserve WAE staff status with no guarantee of employment or the previously held grade upon return to Headquarters.
- (e) that in a rare instance where the Career Service does not approve a request within and up to the basic 52 months, the provisions of (d) above will apply.

5. Career Service Commitment to Reinstate the Accompanying Spouse

a. The current program includes a commitment that the parent Career Service will reinstate the employee in staff status at the same grade level held prior to departure although not necessarily in the same position. This principle remains valid but is addressed here as a special point in view of the recommendations being made in the preceding paragraphs concerning retention of staff status and additional absences beyond 52 months.

b. Although reinstatement to staff status no longer will be an issue if retention of staff status is approved, a Career Service commitment to return the accompanying spouse to active service at the grade level held prior to departure, although not necessarily in the same position, should be retained for the basic 52-month period and for any extensions approved by the Career Service.

c. In the event the Career Service does not approve a request for extension beyond the basic 52 months, and the employee elects to convert to WAE reserve status, it logically follows that the Career Service should have no commitment for reinstatement of the employee following that absence. In such an instance, the employee who wishes to return to active service upon completion of the WAE reserve period of absence, could seek an assignment through Staff Personnel Division, with every effort made to locate a suitable one at the grade held prior to departure. It is possible that this provision could be a troublesome one to employees; however, it is probably unreasonable to expect a Career Service to be responsible for an employee whose request for additional absence beyond 52 months is not approved, and who then selects a course of action which removes him- or herself from active employment with that Career Service.

d. Recommendation

(1) Giving due consideration to both employee and management needs and prerogatives, it is recommended that the Career Service commitment to provide employment for the accompanying spouse at the grade held prior to departure apply to both the "basic" 52-month period, and any approved extensions. There will be no requirement for a specified period of service at Headquarters in the Career Service but, as noted in paragraph 4, the work record of the employee is expected to be considered in considering requests for extensions.

(2) It is recommended, further, that the Career Service not be obligated to reemploy the accompanying spouse if an extension is disapproved and the spouse elects an option that interrupts his or her active employment with the Career Service.

6. Priority Consideration for Vacancies at a New Post  
When Transferring Laterally

a. There is no record of specific discussion or controversy on this point. The priority consideration provision could have been included in response to pressure from those concerned about the program. It also could have been seen as a cost-effective measure (i.e., if an employable, qualified, spouse is available for an assignment, why incur the expense of sending another employee from Headquarters?). Regardless of the original reason for this policy, the Personnel Management Advisory Board (PMAB) believes it inappropriate to have a stated policy which gives one group of employees priority over another with regard to assignments. The PMAB concluded that the current statement should be deleted.

b. Recommendation

In the interest of equitable treatment, and so as to allow Career Services to be able to provide overseas assignments for fully employed career employees as a matter of normal service and career development, it is recommended that the guaranteed priority consideration for transferring spouses be deleted and that the following be substituted as a policy statement:

When the accompany spouse who is under the aegis of this program transfers with the primary employee laterally to another field post, every effort will be made to provide employment.

7. Other Provisions

The following remaining provisions of the current program are considered still valid and it is recommended that they be retained:

- a. that the employee sign a memorandum of understanding prior to departure; (Current form to be revised.)
- b. that, to insure consistent application, Headquarters approval of the proposed rate of pay and schedule of work be obtained expeditiously when the WAE employee is employed;
- c. that the employee be required to return to active employment status within 60 days after returning to Headquarters;
- d. that the parent component at Headquarters retain jurisdiction of the employee during approved absences;
- e. that comparative evaluation be suspended at the point after which no performance appraisal is available for the employee in the performance of his or her regular occupational speciality;
- f. that changes of Career Service cognizance may occur if all parties agree.

5 August 1981

Memo to DD/Pers from OGC; Subject:  
Dual Benefits for Working Couples

2 February 1982

Memo to D/Pers from DD/PA&E; Subject:  
Employees Accompanying Spouses to Other  
Geographic Areas (Short Title: Spouse  
LWOP Program)

14 May 1982

Memo to ExDir from D/Pers; Subject:  
Spouse Leave Without Pay Program

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